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RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**E-filing**

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6 **UNITED STATES DISTRICT COURT**
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

7 ELEANOR AND CRISTINA VERGARA,) Case No.: **CV 12 2551**

8 Plaintiffs,) **COMPLAINT AND DEMAND FOR DMR**
 9) **JURY TRIAL**
 10 v.)
 11 BUREAU OF COLLECTION RECOVERY,) **(Unlawful Debt Collection Practices)**
 12 INC.,)
 13 Defendant.)

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15 **VERIFIED COMPLAINT**

16 ELEANOR AND CRISTINA VERGARA (Plaintiffs), by attorneys, KROHN & MOSS,
 17 LTD., allege the following against BUREAU OF COLLECTION RECOVERY, INC.
 18 (Defendant):

19 **INTRODUCTION**

- 20 1. Count I of Plaintiffs' Complaint is based on the Fair Debt Collection Practices Act, 15
 21 U.S.C. 1692 et seq. (FDCPA).
- 22 2. Count II of the Plaintiffs' Complaint is based on Rosenthal Fair Debt Collection
 23 Practices Act, *Cal. Civ. Code §1788 et seq.* (RFDCPA).

JURISDICTION AND VENUE

3. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and *28 U.S.C. 1367* grants this court supplemental jurisdiction over the state claims contained therein.
 4. Defendant conducts business in the state of California, and therefore, personal jurisdiction is established.
 5. Venue is proper pursuant to *28 U.S.C. 1391(b)(2)*.

PARTIES

6. Plaintiffs are natural persons residing in San Francisco City, San Francisco County, California.
 7. Plaintiffs are consumers as that term is defined by *15 U.S.C. 1692a(3)*, and according to Defendant, Plaintiffs allegedly owe a debt as that term is defined by *15 U.S.C. 1692a(5)* and *Cal. Civ. Code § 1788.2(h)*.
 8. Defendant is a debt collector as that term is defined by *15 U.S.C. 1692a(6)* and *Cal. Civ. Code §1788.2(c)*, and sought to collect a consumer debt from Plaintiffs.
 9. Defendant is a national company with its headquarters in Eden Prairie, Minnesota.

FACTUAL ALLEGATIONS

10. Beginning in approximately April 2011, Defendant constantly and continuously placed collection calls to Plaintiffs seeking and demanding payment for an alleged debt originally owed to T-Mobile.
 11. At the inception of the calls in April 2011, Plaintiff Eleanor Vergara answered Defendant's collection call and told Defendant that Plaintiffs cannot pay the alleged debt.

12. Despite being so informed, Defendant continued to call Plaintiffs up to 5 times per day from various numbers including but not limited to: 415-390-2222, 415-366-6255, 800-831-7311 and 202-607-2764.

13. For example, Defendant called Plaintiffs 5 times on May 23, 2011 and May 25, 2011.

14. Defendant called Plaintiffs 4 times on May 5, 2011, May 16, 2011 and May 31, 2011.

15. Defendant's continuous collection calls only ceased upon Plaintiffs retention of the undersigned who sent Defendant a cease and desist demand in writing on June 1, 2011.

COUNT I

DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

16. Defendant violated the FDCPA based on the following:

- a. Defendant violated §1692d of the FDCPA by engaging in conduct the natural consequence of which was to harass, oppress, and abuse Plaintiffs.
 - b. Defendant violated §1692d(5) of the FDCPA by causing a telephone to ring repeatedly and continuously with the intent to annoy, abuse, and harass Plaintiffs.

WHEREFORE, Plaintiffs, ELEANOR AND CRISTINA VERGARA, respectfully request judgment be entered against Defendant, BUREAU OF COLLECTION RECOVERY, INC., for the following:

17. Statutory damages of \$1000.00 pursuant to the Fair Debt Collection Practices Act, 15
U.S.C. 1692k,

18. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act,
15 U.S.C. 1692k

19. Any other relief that this Honorable Court deems appropriate.

COUNT II

**DEFENDANT VIOLATED THE ROSENTHAL FAIR DEBT COLLECTION
PRACTICES ACT**

20. Plaintiffs repeat and re-allege all of the allegations in Count I of Plaintiffs' Complaint as the allegations in Count II of Plaintiffs' Complaint.

21. Defendant violated the RFDCPA based on the following:

- a. Defendant violated §1788.11(d) of the RFDCPA by causing Plaintiffs' telephone to ring repeatedly and continuously so as to annoy Plaintiffs.
 - b. Defendant violated §1788.11(e) of the RFDCPA by placing collection calls to Plaintiffs with such frequency that was unreasonable and constituted harassment.
 - c. Defendant violated the §1788.17 of the RFDCPA by continuously failing to comply with the statutory regulations contained within the FDCPA, 15 U.S.C. § 1692 et seq. to wit: 1692d.

WHEREFORE, Plaintiffs, ELEANOR AND CRISTINA VERGARA, respectfully request judgment be entered against Defendant, BUREAU OF COLLECTION RECOVERY, INC., for the following:

22. Statutory damages of \$1000.00 pursuant to the Rosenthal Fair Debt Collection Practices Act, *Cal. Civ. Code §1788.30(b)*,
23. Costs and reasonable attorneys' fees pursuant to the Rosenthal Fair Debt Collection Practices Act, *Cal. Civ Code § 1788.30(c)*, and
24. Any other relief that this Honorable Court deems appropriate.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiffs, ELEANOR AND CRISTINA VERGARA, demand a jury trial in this cause of action.

~~RESPECTFULLY SUBMITTED,~~

KROHN & MOSS, LTD.

DATED: May 15, 2012

By:

Ryan Lee
Attorney for Plaintiffs